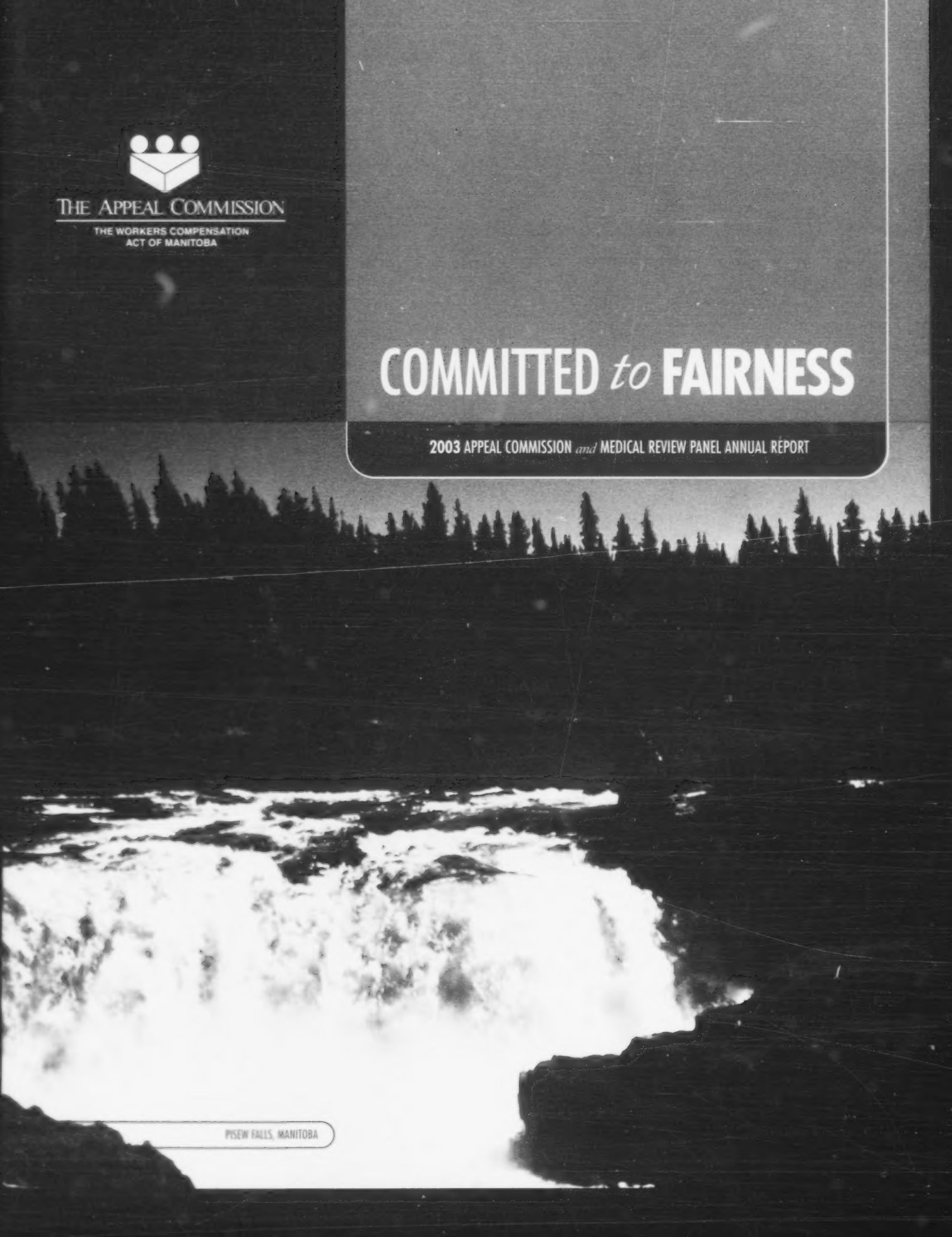
THE APPEAL COMMISSION

THE WORKERS COMPENSATION ACT OF MANITOBA

COMMITTED *to* FAIRNESS

2003 APPEAL COMMISSION *and* MEDICAL REVIEW PANEL ANNUAL REPORT



PISEW FALLS, MANITOBA

INTRODUCTION

This report outlines the activities and statistics for both the Appeal Commission and Medical Review Panels for the period January 1, 2003 to December 31, 2003 inclusive.

The Appeal Commission is separate and independent from the Workers Compensation Board (WCB) and is the final level of decision making in the WCB appeal structure. The Appeal Commission has exclusive jurisdiction to hear and decide appeals that arise from decisions made by the Workers Compensation Board. The independence of the Appeal Commission ensures that appeals from workers and employers are heard by an impartial panel with no previous involvement or interest in the matters under appeal.

The Appeal Commission consists of full and part-time appeal commissioners who are appointed by the Lieutenant Governor in Council for specific terms.

Medical Review Panels are established under the Act as a separate and independent process from the WCB and the Appeal Commission. Medical Review Panels are a process by which the WCB or Appeal Commission can pose questions to an independent panel of medical experts and obtain an impartial medical opinion on a worker's claim. The findings of a Medical Review Panel are considered evidentiary in nature and are not binding upon the WCB or Appeal Commission.

The Minister responsible for *The Workers Compensation Act* appoints the Medical Review Panel Chair and Alternate Chair. The independence of the Chairs, and the ability of the employer and worker to select physicians with no previous involvement to sit on a panel, allows for an impartial medical opinion.

The Office of the Registrar is responsible for providing administrative support to both the Appeal Commission and Medical Review Panels.

The Appeal Commission and Medical Review Panel activities and statistics are reported separately, as both activities are independent from the Workers Compensation Board.

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MISSION STATEMENT

To ensure workers and employers continue to receive a full and impartial hearing of appeals in accordance with fairness and the rules of natural justice and that decisions of the appeal commission are a fair reflection of the facts of the case and the governing legislation.

VALUES

Quality Assurance

The Appeal Commission maintains a consistent and high level of professional conduct, knowledgeable decision making, and accountability, while respecting differing and shared values and perspectives.

Public Integrity

The Appeal Commission is, and is seen to be, an independent body with integrity and a rational decision making process.

Responsive to Change

The Appeal Commission evolves in a proactive and creative manner by assuring a process of consultation and consensus around desired change.

Interdependence

All Appeal Commissioners are committed to a high standard of professionalism in their duties to conduct fair and impartial hearings under *The Workers Compensation Act* and its regulations. As well as their individual responsibilities to become knowledgeable in the matters before them, the commissioners have individual and collective responsibilities to one another to ensure an atmosphere of mutual respect, tolerance of individual differences and opinions, freedom from pre-determined bias and a commitment to look for objective truth and sound decision making.

Respectful Work Environment

Appeal Commissioners interact with staff and colleagues in a manner which promotes mutual respect as well as clarity and understanding of respective roles.

a message from the

CHIEF APPEAL COMMISSIONER

I am pleased to present the annual report of the Appeal Commission for the year 2003.

The Appeal Commission is mandated to be the final appeal body for matters under the Workers Compensation Act of Manitoba. In simple terms, this means that persons who are not satisfied with decisions made by the Workers Compensation Board, in respect of their claims, may appeal to the Commission, which is a body independent of the WCB. The Commission has an additional, albeit much smaller, role as the Compensation Appeal Board, pursuant to the Victims' Bill of Rights.

The Appeal Commission has adopted as its mission to ensure that all parties to an appeal receive a full and impartial hearing. It is to that end that the Commission devotes its energies.

After three years in which we saw a number of significant changes – in full and part-time commissioners, staff and a move of office space – the past year has been comparatively quiet. Two commissioners had their appointments renewed: Linda Butler and myself.

When it came to fulfilling our principal mandate – hearing appeals – our work continued apace. Throughout the year, the Commission remained committed to maintaining and improving its service delivery. Elsewhere in this report, you will find statistics which detail our performance for the past year. They show that we have been successful in keeping up to the high performance levels which the Commission has achieved over the past few years.

To ensure that we maintain these high standards, the Commission continues to provide a series of professional development seminars, which help to educate commissioners, part- and full-time, in a variety of areas of concern to them as adjudicators: from medical problems common to the workplace to decision making and writing.

The commissioners are further aided in their endeavours by the outstanding support provided by the staff of the Office of the Registrar.

Judging by the number of visits our website (www.appeal.mb.ca) receives, we believe that it continues to be a valuable resource. It contains information on just about everything one might want to know about The Appeal Commission, including how to make an appeal, how the process works, as well as application forms for making an appeal. The site also contains the written decisions of all appeals that have come before the Commission since the beginning of 1999.

As I write this, early in 2004, we have had a couple of significant changes. Kaye Dunlop has been replaced as a part-time commissioner by Christine Harapiak. Kaye has served the Commission for more than 12 years. During that time, she proved to be an outstanding presiding officer, able to handle the most complex cases. We will miss her professionalism, her skills in hearing and determining appeals and, especially, her engaging personality. We all wish her the very best.

Also in January, I was appointed as Chair of the Manitoba Clean Environment Commission, which duties I assumed almost immediately. I leave this position with very mixed emotions. My three and a half years here have been an incredible experience. I have learned a lot. And, I have had the opportunity to work with a fabulous group of people. I will miss this. However, I look forward to new challenges and the opportunity to make a contribution to another area of importance to Manitoba.

I wish my replacement (not yet named, as I write this) all the very best.

Sincerely,

Terry Sargeant

Terry Sargeant

about the APPEAL COMMISSION

The Appeal Commission was established by legislative amendment to *The Workers Compensation Act* (the Act) in July 1990. The Appeal Commission is the final level of appeal in the workers compensation system. The Appeal Commission operates separately and independently from the WCB and is solely responsible for hearing all appeals from workers and employers concerning WCB Review Office or Assessment Committee decisions.

The full and part time appeal commissioners are appointed by the Lieutenant Governor in Council for specific terms. The Act requires that the Appeal Commission consist of one or more appeal commissioners representing the public interest, one of whom is designated as Chief Appeal Commissioner, and one or more appeal commissioners representing workers and employers covered under the Act. The Chief Appeal Commissioner is responsible for the operation and conduct of matters relating to the Appeal Commission as established by the Act. Currently, there are two full-time presiding officers representing the public interest, including the Chief Appeal Commissioner, and two full-time commissioners representing labour and employer interests respectively.

The part-time commissioners are used where a full-time commissioner is in conflict on a case, to manage workloads, for vacation relief and to maintain their level of expertise. As of December 31, 2003, the Appeal Commission had a roster of twelve part-time commissioners with four representing the public interest, four representing workers and four representing employers.

The Appeal Commission's conduct is governed by Regulation 279/91, *Appeal Commission Rules of Procedure*. The Rules of Procedure establish the responsibilities of the Chief Appeal Commissioner, the Registrar and the appeal panels to ensure that the integrity of the appeal system is protected and maintained.

Panels of three commissioners, representing public, worker and employer interests respectively, hear appeals. The commissioner representing the public interest is the Presiding Officer of the panel and is responsible for the conduct of the hearing/review and panel meetings.

Hearings and reviews are conducted in accordance with the rules of natural justice and procedural fairness. All parties to an appeal (i.e. the employer, worker and their representatives) are given an equal opportunity to present their case.

The Appeal Commission is a non-adversarial enquiry forum where parties with a direct interest in a matter provide oral or written evidence. The Appeal Panel has the ability to ask questions or obtain additional evidence, which ensures that the Appeal Panel has all the information necessary to reach a fair decision.

The Appeal Panel may hear witnesses from either or both parties, and may subpoena witnesses or evidence that will assist the panel in reaching a decision. A party with a direct interest may appear before the panel to provide evidence or in some cases, ask the panel to conduct a paper review of the file, which would not require the attendance of any party.

The Appeal Commission also acts as the final level of appeal for the claims of victims of crime filed under the provisions of *The Criminal Injuries Compensation Act, The Victims' Rights Act or The Victims' Bill of Rights.*

method of APPEAL

Appellants can request one of three forums of appeal. However the Chief Appeal Commissioner has the final authority to determine the most appropriate forum for an appeal.

NON-ORAL FILE REVIEW

An appeal can be decided by a file review if all the issues are easy to understand from the file documents. The panel reaches a decision after it conducts a full review of the file documentation and any evidence submitted in writing by the parties with a direct interest. If an appeal is decided by a non-oral file review, interested parties do not have to appear in person before the appeal panel. Some examples of appeals commonly decided by file review include:

- most assessment appeals
- factual matters such as the level of average earnings
- applications for an increase in permanent partial impairment where no wage loss is involved
- payment of medical aid/travel expenses
- appeals where the facts of the case are not in dispute

STANDARD ORAL HEARING

Standard oral hearings are the most common appeal forum. If the appeal is more complex, it will probably be decided by an oral hearing. In this method the parties must appear in person at the hearing. At the hearing, parties present the appeal to the panel verbally. The appeal can be supported by a written submission. Witnesses may attend in support of the appeal. However, the Appeal Commission must be advised if witnesses will be attending. Some examples of appeals commonly decided by a standard oral hearing are:

- where additional evidence is to be presented
- where there is a fatality
- where serious injury has occurred
- where an occupational disease is involved
- where the decision may have an important impact on how WCB policy is interpreted or applied
- where the facts are in dispute or credibility is an issue

EXPEDITED ORAL HEARING

Occasionally, oral hearings may be expedited. This means that a decision is given immediately following the hearing and written reasons are provided at a later date. In this method the parties must appear in person at the hearing to present their appeal. Some examples of appeals decided by an expedited oral hearing are:

- where the appeal panel feels an immediate decision is necessary
- where no additional evidence is required by the panel
- applications for periods of retroactive benefits, where the worker has returned to work

General Hearing/Review Information

- Hearings and reviews are scheduled as soon as parties are fully prepared to proceed.
- Hearings are closed to the public. In limited circumstances a hearing may be open to the public if permission is obtained from all parties.
- A worker's access to their file information is governed by subsection 101(1.1) of the Act, and the employer's access is governed by subsection 101(1.2). File access generally takes up to six weeks, but can take longer if objections to the release of information are received.
- Any written evidence concerning an appeal must be provided to the Registrar no later than five business days before the file review or hearing.
- A court reporter records the proceedings at all oral hearings. After the hearing, a transcript is produced and becomes part of the file record.
- The Appeal Commission provides interpreter services free of charge, where needed.
- Pursuant to Regulation 279/91, *Appeal Commission Rules of Procedure*, a decision of a panel shall be rendered within 60 days of the completion of the file review or hearing.

AFTER AN APPEAL

The Appeal Commission cannot amend, clarify or change its decision once it has been rendered. This means that once a decision is made, the panel cannot provide further reasons, clarification or explanations for its decision. As well, the panel cannot consider further arguments or submissions by the parties to the appeal once a decision has been made.

The Act provides two limited options for reconsideration of an Appeal Commission decision.

Under Section 60.9 of the Act, if a party to an appeal feels the panel has acted outside its authority or has erred in applying Workers Compensation legislation, policy or regulations, the party can approach the WCB Board of Directors. The party must identify the alleged error made by the panel. If the Board of Directors determines that an error has been made, the Board can stay or set aside the decision and order that the case be re-heard. The Board of Directors is unable to set aside a decision of the Appeal Commission if it has acted within its jurisdiction.

Under subsection 60.91(1) of the Act, if a party with a direct interest acquires new evidence after the hearing, the party may apply to the Chief Appeal Commissioner to request reconsideration of the previous decision. If the Chief Appeal Commissioner decides that the evidence meets the requirements of the Act, a new hearing on the matter is ordered. The Chief Appeal Commissioner does not have a general power of reconsideration and is unable to consider further arguments about the evidence that was before the original panel.

Subsection 60.91(2) describes the nature of the evidence and states:

The Chief Appeal Commissioner may direct the Appeal Commission to reconsider its previous decision where the Chief Appeal Commissioner considers that the evidence referred to in subsection (1) is substantial and material to the decision, and

(a) did not exist at the time of the previous hearing before the appeal commission, or

(b) was not known to the applicant at the time of the previous hearing before the appeal commission and could not have been discovered through the exercise of due diligence.

The Chief Appeal Commissioner and full and part time commissioners representing workers, employers and the public interest are appointed by the Lieutenant Governor in Council.

There are currently four full-time commissioners: (l to r)

Allan Finkel,
Appeal Commissioner (Employers)

Margaret Day,
Appeal Commissioner (Workers)

Robert MacNeil,
Presiding Officer (Public Interest)

Terry Sargeant,
Chief Appeal Commissioner (Public Interest)

the full-time APPEAL COMMISSIONERS

the part-time APPEAL COMMISSIONERS

As of December 31, 2003, the Appeal Commission had a roster of twelve part-time appeal commissioners, four representing the public interest, four representing workers and four representing employers. The services of the part-time commissioners are used when full-time commissioners are in conflict on a case, for vacation relief, when workloads increase and to maintain their level of expertise.

CURRENT ROSTER

PUBLIC INTEREST	REPRESENTING WORKERS	REPRESENTING EMPLOYERS
Kaye Dunlop, Q.C. (7)	Chris Monk (3)	Paul Challoner (6)
Mira Thow (4)	Bob Malazdrewich	Jane MacKay (2)
Sherri Walsh (1)	Bill Leake (8)	Gail Overgaard
Byron Williams	Linda Butler (9)	Bonnie Popowich (5)

2003 HIGHLIGHTS

- In April, the Chief Appeal Commissioner was an invited speaker at the Canadian Institute's "Fundamentals of Administrative Law & Practice" conference in Ottawa, Ontario. The Chief Appeal Commissioner led a breakout session on the practice of administrative law for tribunal members.
- The Chief Appeal Commissioner was a guest lecturer at the University of Manitoba Faculty of Law's course "Clinical Administrative Practice".
- In June, the full-time commissioner representing employers was an invited speaker at the Council of Canadian Administrative Tribunals "Investing in Knowledge" conference in Gatineau, Quebec. He presented on the topic of "Building the competency base of your tribunal: From selection to training."

COMMISSIONER WORKSHOPS
(continuing education)

Full and part-time appeal commissioners attend workshops throughout the year on topics related to workers compensation and administrative tribunals. As part of their training, workshops were held in 2003 on:

- Depression and Post Traumatic Stress Disorder
- Brain Injuries & Management of Complex Psychosocial Issues
- Chronic Pain
- Freedom of Information & Protection of Privacy Act and Personal Health Information Act

In addition to the above workshops, the full time commissioners participated in the following external training:

- The Canadian Institute's course "Fundamentals of Administrative Law & Practice" (ON)
- The Council of Canadian Administrative Tribunals conference "Investing in Knowledge" (QC)

Appeal Commission STATISTICS

* excludes Criminal Injuries/Victims' Rights appeals

TOTAL APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals carried forward from previous year	27	33	33
Panel hearings held (by appeal)	128	111	149
Panel reviews held (by appeal)	39	41	30
Cases in process	[31]	[27]	[33]
Cases adjourned	[4]	[3]	[9]
TOTAL APPEALS DECIDED	**159**	**155**	**170**
Appeals accepted	42	51	60
Appeals partially accepted	23	15	19
Appeals not accepted	94	89	91
TOTAL APPEALS DECIDED	**159**	**155**	**170**
Percentage accepted	26.4%	32.9%	35.3%
Percentage partially accepted	14.5%	9.7%	11.2%
Percentage not accepted	59.1%	57.4%	53.5%

POST HEARING ACTIVITIES (Cases in process)	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Cases awaiting further information requested by the Panel	11	17	12
Cases awaiting decision	3	1	7
Cases decided but not communicated	17	9	14
TOTAL CASES IN PROCESS	**31**	**27**	**33**

TOTAL CLAIMANT APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	40	47	51
Appeals partially accepted	23	15	19
Appeals not accepted	81	67	72
TOTAL CLAIMANT APPEALS	**144**	**129**	**142**
Percentage accepted	27.8%	36.4%	35.9%
Percentage partially accepted	16.0%	11.6%	13.4%
Percentage not accepted	56.2%	52.0%	50.7%
Number of claimants represented by:			
Legal Counsel	19	20	16
Union Representative	40	34	48
Worker Advisor	28	27	42
Advocates	7	8	5
Self Representation	43	36	28
Other	7	4	3
TOTAL	**144**	**129**	**142**

TOTAL EMPLOYER APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	2	3	8
Appeals partially accepted	0	0	0
Appeals not accepted	13	19	17
TOTAL EMPLOYER APPEALS	**15**	**22**	**25**
Percentage accepted	13.3%	13.6%	32.0%
Percentage partially accepted	0%	0%	0%
Percentage not accepted	86.7%	86.4%	68.0%
Number of employers represented by:			
Legal Counsel	0	2	2
Advocate	3	3	6
Employer Agent	10	13	13
Self Representation	2	4	4
TOTAL	**15**	**22**	**25**

BREAKDOWN OF EMPLOYER APPEALS TO CLAIMS/REHABILITATION ISSUES	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	2	1	5
Appeals partially accepted	0	0	0
Appeals not accepted	11	14	14
TOTAL	**13**	**15**	**19**
Percentage accepted	15.4%	6.7%	26.3%
Percentage partially accepted	0%	0%	0%
Percentage not accepted	84.6%	93.3%	73.7%

BREAKDOWN OF EMPLOYER APPEALS TO ASSESSMENT ISSUES	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	0	2	3
Appeals partially accepted	0	0	0
Appeals not accepted	2	5	3
TOTAL	**2**	**7**	**6**
Percentage accepted	0%	28.6%	50.0%
Percentage partially accepted	0%	0%	0%
Percentage not accepted	100%	71.4%	50.0%

TOTAL THIRD PARTY APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	0	1	1
Appeals partially accepted	0	0	0
Appeals not accepted	0	3	2
TOTAL THIRD PARTY APPEALS	**0**	**4**	**3**
Percentage accepted	0%	25.0%	33.3%
Percentage partially accepted	0%	0%	0%
Percentage not accepted	0%	75.0%	66.7%
Number of third parties represented by:			
Legal Counsel	0	4	3
Union Representative	0	0	0
Worker Advisor	0	0	0
Advocates	0	0	0
Self Representation	0	0	0
Other	0	0	0
TOTAL	**0**	**4**	**3**

TOTAL APPEALS BY CASE TYPE

CLAIMS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	42	47	55
Appeals partially accepted	19	14	18
Appeals not accepted	85	77	86
TOTAL	**146**	**138**	**159**
Percentage accepted	28.8%	34.1%	34.6%
Percentage partially accepted	13.0%	10.1%	11.3%
Percentage not accepted	58.2%	55.8%	54.1%

REHABILITATION	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	0	2	2
Appeals partially accepted	4	1	1
Appeals not accepted	7	7	2
TOTAL	**11**	**10**	**5**
Percentage accepted	0%	20.0%	40.0%
Percentage partially accepted	36.4%	10.0%	20.0%
Percentage not accepted	63.6%	70.0%	40.0%

ASSESSMENTS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	0	2	3
Appeals partially accepted	0	0	0
Appeals not accepted	2	5	3
TOTAL	**2**	**7**	**6**
Percentage accepted	0%	28.6%	50.0%
Percentage partially accepted	0%	0%	0%
Percentage not accepted	100%	71.4%	50.0%

TOTAL CASES DECIDED	**159**	**155**	**170**

RECONSIDERATIONS UNDER SECTION 60.91 OF THE ACT	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Number of requests received	15	9	17
Reconsiderations granted	6	1	4
Referred back to the WCB to address new issues identified by the Chief Appeal Commissioner/designate	0	0	0

FILE ACCESS APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Claimant appeals	10	9	9
Employer appeals	2	6	4
TOTAL FILE ACCESS APPEALS	**12**	**15**	**13**

CRIMINAL INJURIES/VICTIMS' RIGHTS APPEALS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Appeals accepted	1	1	0
Appeals partially accepted	0	1	0
Appeals not accepted	7	7	1
TOTAL APPEALS	**8**	**9**	**1**
Percentage accepted	12.5%	11.1%	0%
Percentage partially accepted	0%	11.1%	0%
Percentage not accepted	87.5%	77.8%	100%

	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
TOTAL ISSUES ADDRESSED	199	195	228

MOST COMMON ISSUES ADDRESSED	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Entitlement to wage loss benefits (post 1992)	58	56	59
Claim acceptance	45	32	46
Is present condition related to the compensable injury	20	23	24
Has claimant recovered from the compensable injury	12	10	19
Entitlement to a permanent partial impairment award	7	0	0
Entitlement to medical aid payment	7	10	6
Should responsibility for surgery be accepted	6	1	4
Deeming process	5	4	3
Entitlement to temporary total disability benefits (pre 1992)	4	5	2
Request for a Medical Review Panel	4	11	6
Entitlement to full rehabilitation benefits	3	1	0
Has claimant been overpaid benefits	3	2	2
Is claimant capable of modified duties	2	0	0
Is claimant to reimburse the WCB for overpayment of benefits	2	1	1
Effective date of the permanent partial impairment award	2	0	0

SERVICE LEVELS

The Service Level Report was instituted in 1997. This tracking system allows the Office of the Registrar to review the time it takes an appeal to move through the appeal process. Service levels are reviewed at various stages of the appeal process to identify delays and to determine if administrative improvements can be made.

The Appeal Commission personally contacts all interested parties with respect to the scheduling of hearings. Historically, the Appeal Commission has been able to schedule a hearing or review within six weeks of receiving an appeal. However, it was found that this does not allow sufficient time for the parties to fully prepare.

According to Regulation, an appeal panel must publish its decision within 60 days following the conclusion of a hearing. A hearing is considered to have concluded once the panel obtains the necessary information to allow it to make a decision.

SERVICE LEVEL STATISTICS (based on decisions published as of December 31, 2003)	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Average time from date appeal received to date of hearing	11.38 wks	11.31 wks	14.83 wks
Average time from hearing date to decision published	11.12 wks	11.25 wks	10.75 wks
Average time from date of decision to decision published	5.27 wks	5.12 wks	4.73 wks
TOTAL TIME FROM DATE APPEAL RECEIVED TO DECISION PUBLISHED*	**22.50 wks**	**22.56 wks**	**25.59 wks**

*Includes all cases where the panel did not make a decision immediately after the hearing/review due to a request for additional information.

Dr. Gary Beazley, Chairperson, and Dr. Mallory Fast, Alternate Chairperson

a message from the

MEDICAL REVIEW PANEL CHAIRPERSON

I am both pleased and privileged to present the annual report of Medical Review Panels for the year 2003.

The purpose of Medical Review Panels is to provide the WCB or Appeal Commission with an impartial and independent medical opinion on complex cases or in instances where a bona fide difference of medical opinion exists that affects a worker's entitlement to WCB benefits.

In September 2003, I was appointed Chairperson of Medical Review Panels. I bring to this role 35 years of clinical practice experience as a family physician as well as almost 30 years of involvement in medical education. I look forward to applying my experiences in this challenging role.

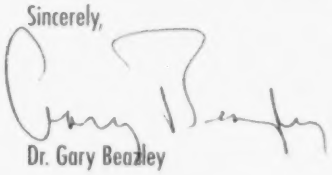
Although still relatively new to the position, my observations of the process to date have been very positive. I have found that panel members and consultants comprised of clinicians from the community, are diligent in their review of the copious documentation provided to them. They are equally diligent in carrying out their mandate and responsibility to seek out all relevant facts of a case through the interview process and examination of the worker. This dedication allows for most thoughtful responses to the questions presented in regard to the case. I have also noted that workers appear to have a solid understanding of the independent nature of the Medical Review Panel process. I believe this speaks well to not only the WCB and Appeal Commission who order the convening of Medical Review Panels, but also to the numerous advocates who assist injured workers.

Through my participation on Medical Review Panels, I have also had the opportunity to observe and note several matters that I feel are not serving the injured workers of Manitoba well. Specifically, I have noted a lack of timely and sufficient medical detail provided by treating physicians which in my view may lend itself to a less than complete adjudication process. Attending or treating physicians are commonly invited to attend the Medical Review Panel as a guest with the opportunity to provide further information which may not otherwise be available to the panel members. In my experience, in the majority of cases, the attending or treating physicians do not attend. It is also my view that this is not in the best interest of their patient particularly given my earlier observation respecting timely and sufficient reporting.

On a personal note, I would like to pay tribute to my predecessor, Dr. Claude Murphy, with whom I was associated in clinical practice for approximately 25 years. After many years of dedication and service as Chairperson of Medical Review Panels, Dr. Murphy elected to retire. It has become clear that he was held in high regard by all of the specialist physicians with whom he interacted over his many years in the position. I wish Dr. Murphy a long and happy retirement.

2003 was an exciting and challenging year for me. I want to thank all of the physicians in the community who have contributed to the success of the Medical Review Panel process. I would also like to thank the staff of the Office of the Registrar for their hard work and support. I look forward to the challenges that 2004 will bring.

Sincerely,



Dr. Gary Beazley

about MEDICAL REVIEW PANELS

Medical Review Panels enable the WCB or Appeal Commission to obtain impartial, independent advice on medical matters that affect a worker's right to compensation.

Subsection 67(3) of the Act allows the WCB or Appeal Commission the discretion to refer a medical matter to a Medical Review Panel for an independent opinion. This may occur when a claim is fairly complex and an independent expert opinion is required.

Subsection 67(4) of the Act establishes the right of an injured worker to a Medical Review Panel if there is a difference of opinion on a medical matter between the worker's physician and a WCB medical advisor, and this difference affects the worker's entitlement to compensation. A Medical Review Panel must be convened if a difference of opinion, as defined by subsection 67(1) of the Act, exists.

A Medical Review Panel is comprised of a Chairperson and two panel members. The Minister responsible for the Act appoints the Chairperson and the alternate Chairperson. The worker and employer select the other two panel members from a list of physicians provided by the College of Physician and Surgeons, who specialize in the matter under consideration. In addition, specialist consultants in other fields may be invited to attend and assist the panel.

Physicians who have treated the worker, who examine workers on behalf of the employer, or who have acted as consultants in the treatment of the worker are not eligible to serve on the Medical Review Panel.

The independent nature of the Medical Review Panel process ensures that the medical advice obtained is impartial and is based upon the facts of the case as documented on file and as discovered through the process.

The findings of a Medical Review Panel are considered evidentiary in nature and are not binding upon the WCB or the Appeal Commission.

2003 HIGHLIGHTS

- Dr. Claude Murphy retired as Medical Review Panel Chairperson in August after 38 years as either Chair or Alternate Chair.
- Dr. Gary Beazley was appointed as Medical Review Chairperson in September.
- Phyllis Kastalanych retired in January after 13 years of service with Medical Review Panels.
- Stephanie Cambly was appointed Medical Review Panel Scheduling Coordinator in February.

MEDICAL REVIEW PANEL STATISTICS	YEAR ENDING 2003	YEAR ENDING 2002	YEAR ENDING 2001
Total MRPs convened	36	40	33
MRPs awaiting scheduling	17	12	6
INITIATED BY			
Primary Adjudication	30	22	22
Review Office	3	13	7
Appeal Commission	3	5	4
CONVENED UNDER			
Subsection 67(3)	8	12	7
Subsection 67(4)	28	28	26

MEDICAL REVIEW PANELS CONVENED BY AREA OF MEDICAL SPECIALTY	2003	2002	2001
Orthopedic Surgery	19	26	22
Physical Medicine & Rehabilitation	8	6	3
Psychiatry	3	4	0
Neurology	3	1	3
Cardiac Surgery	1	0	0
Neurosurgery	1	0	0
Orthopedic Surgery/Phys Med & Rehab	1	0	0
Respiratory Medicine	0	1	0
Neurosurgery/Orthopedic Surgery	0	1	0
Neurology/Respiratory Medicine	0	1	0
General Surgery	0	0	1
Clinical Immunology & Allergy	0	0	1
Occupational Medicine/Ophthalmology	0	0	1
Otolaryngology	0	0	1
Physical Medicine & Rehabilitation/Neurology	0	0	1
TOTALS	36	40	33

SERVICE LEVELS

The scheduling of a Medical Review Panel is a complex process where a panel of specialists and consultants are brought together on a specific day to meet, examine a worker and answer questions placed to them. This involves arranging a time convenient to all parties, the preparation of documents and the publishing of the Medical Review Panel findings.

MEDICAL REVIEW PANEL SERVICE LEVEL STATISTICS	2003	2002	2001
Average time from date of request to date MRP held	21.27 wks	22.90 wks	14.83 wks
Average time from date of MRP to date when report is published	6.12 wks	7.62 wks	4.99 wks
Average time from date of request to when report is published	27.39 wks	30.52 wks	19.82 wks

office of THE REGISTRAR STAFF

The administrative staff supports both the Appeal Commission and Medical Review Panels.

Peter Wiebe, Registrar (2)
Roger Lafrance, Assistant Registrar (7)
Marg Semler, Scheduling Coordinator (5)
Bonnie Miller, Recording Secretary (1)
Diane Daignault, Office Administrator (8)
Melanie Curtis, Assistant Scheduling Coordinator (3)
Stephanie Michalow, Photocopy Clerk (6)
Stephanie Cambly, MRP Scheduling Coordinator (4)

Missing: Dr. Brian Onoferson, Medical Advisor

COMMITTED *to* FAIRNESS

2003 APPEAL COMMISSION *and* MEDICAL REVIEW PANEL ANNUAL REPORT

THE APPEAL COMMISSION

THE WORKERS COMPENSATION
ACT OF MANITOBA

600 – 330 St. Mary Avenue
Winnipeg, Manitoba, Canada R3C 3Z5

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